

Assembly Bill No. 1856

CHAPTER 197

An act to amend Section 21050 of the Government Code, relating to public employees' retirement.

[Approved by Governor August 27, 2010. Filed with
Secretary of State August 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1856, Fong. Public employees' retirement.

The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Under the Public Employees' Retirement Law, members may elect to receive service credit for various types of public service, and this election is effective only if an appropriate payment, or authorization for payment, of the contributions and interest required for the credit is made. That law calculates retirement benefits, in part, based on years of creditable service and authorizes a member to receive additional service credits, as specified.

This bill would authorize a member authorized to pay for credit for service in after-tax installments to elect in writing, including by verified electronic transaction, at any time prior to retirement, to suspend after-tax installment payments for a period not to exceed 12 months or to prospectively cancel payment of the remaining unpaid balance for those installment payments, as specified. The bill would require that installment payments automatically resume at the end of the suspension period, or earlier if requested by the member. The bill would prohibit an additional suspension of those installment payments for the same service for 3 years following the resumption of installment payments. The bill would require that the balance due at the end of a suspension period be recalculated to include interest accrued during the suspension.

The bill would additionally authorize the board to cancel payment of the remaining unpaid balance for those installment payments if the member fails to make after-tax installment payments when due for a period of 12 months. The bill would authorize a member to elect to purchase that portion of the service credit not credited to the member's account as a result of cancellation, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 21050 of the Government Code is amended to read:

21050. (a) An election by a member to receive credit for service under this part, in addition to his or her current and prior service credit, shall be effective only if accompanied by a lump-sum payment or an authorization for payments, other than a lump-sum payment, in accordance with regulations of the board.

(b) If a member electing to receive credit for service under this part is authorized to pay for that service in installment payments beginning on or after January 1, 2004, the amount of the installment payments shall include an actuarial adjustment, as determined by the chief actuary, as necessary to take into account the provisions of Section 21037. The amount of the actuarial adjustment may not exceed one-half of 1 percent of the total installment payment.

(c) (1) A member authorized to pay for credit for service in after-tax installments may elect in writing, including by verified electronic transaction, at any time prior to retirement, to suspend after-tax installment payments for a period not to exceed 12 months. Installment payments shall automatically resume at the end of the suspension period, or earlier if requested by the member. A member may not elect an additional suspension of those installment payments for the same service for three years following the resumption of installment payments.

(2) The balance due at the end of a suspension period shall be recalculated to include interest accrued during the suspension.

(3) (A) A member who retires during the suspension period may, prior to retirement, do either of the following:

(i) Make a lump-sum payment for the recalculated balance due.

(ii) Cancel installment payments in the manner specified in subdivision (d).

(B) Failure by a member to make the lump-sum payment or the election to cancel installment payments, will result in the resumption of installment payments as of his or her date of retirement.

(d) A member authorized to pay for credit for service in after-tax installments may elect in writing, including by verified electronic transaction, at any time prior to retirement, to prospectively cancel payment of the remaining unpaid balance for those installment payments.

(1) An election shall be effective upon the earlier of the member's retirement date, or the first day of the month following approval by the system of the election.

(2) Service credited to the member's account will be reduced in proportion to the balance of the total amount remaining unpaid on the effective date of the cancellation. If the member elects to cancel during or at the end of a suspension period, the balance shall include any interest accrued and unpaid during the suspension period.

(3) Installment payments shall not be canceled for any of the following:

(A) Contribution or service credit adjustments required by law or agreement.

(B) A tier election pursuant to Article 2 (commencing with Section 21070) of Chapter 12 of Part 3 of Division 5 of Title 2.

(C) The purchase of service credit subject to a community property division by way of court judgment, domestic relations, or other court order or settlement agreement.

(e) If a member who has not elected to suspend installment payments pursuant to subdivision (c) fails to make after-tax installment payments when due for a period of 12 months, the board may cancel the remaining unpaid balance in the same manner and with the same effect as if the member had elected to cancel his or her installment payments pursuant to subdivision (d).

(f) Prior to retirement, a member may elect to purchase that portion of the service credit not credited to his or her account as a result of a cancellation executed pursuant to subdivision (d) or (e). A member shall not make an election for three years following the effective date of the cancellation unless the member retires before the conclusion of that period.

(1) A member who elects to purchase that service credit shall contribute an amount equal to the sum of the following:

(A) The remaining unpaid balance of the canceled installment payments.

(B) Interest from the effective date of the cancellation until the date of completion of payment.

(C) If the member elects to contribute in installment payments, interest on the unpaid balance of the amount payable, beginning on the date of the election to receive credit through completion of payments.

(2) Notwithstanding Section 575.1 of Title 2 of the California Code of Regulations, the interest rate applicable to the amount due for this election shall be the interest rate applicable to the canceled installment payments.